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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 JESSICA BEELL, individually on her
12 own behalf and on behalf of all others similarly
13 situated,

14 *Plaintiff,*

15 v.

16 FIRST NATIONAL COLLECTION
17 BUREAU, INC., a Nevada corporation,

18 *Defendant.*

Case No.

CLASS ACTION COMPLAINT

19 **CLASS ACTION COMPLAINT AND JURY DEMAND**

20 Plaintiff Jessica Beell brings this class action complaint against Defendant First National
21 Collection Bureau, Inc., to stop Defendant's practice of making unsolicited phone calls to the
22 cellular telephones of consumers nationwide, and to obtain redress for all persons injured by its
23 conduct. Plaintiff, for her class action complaint, alleges as follows upon personal knowledge as to
24 herself and her own acts and experiences, and, as to all other matters, upon information and belief,
25 including investigation conducted by her attorneys.

26 **NATURE OF THE ACTION**

27 1. Defendant First National Collection Bureau, Inc. is debt collector working in
28 conjunction with such retailers as Verizon.

1 10. Warren Way, Reno, Nevada 89509. First National Collection Bureau does business
2 throughout the United States and in this District.

3 **JURISDICTION AND VENUE**

4 11. This Court has federal question subject matter jurisdiction under 28 U.S.C. § 1331,
5 as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*, which is
6 a federal statute.

7 12. The Court has personal jurisdiction over Defendant and venue is proper in this
8 District because Defendant is incorporated under the laws of the State of Nevada and its principal
9 place of business is located in this District.

10 **COMMON FACTUAL ALLEGATIONS**

11 13. Defendant placed and continues to place repeated and harassing phone calls to
12 consumers who allegedly owe a debt held by Defendant, or held by a third party on whose behalf
13 Defendant is acting, and who never provided the number called to Defendant or the third party.
14 Instead, Defendant acquires phone numbers through various means such as “skip tracing” or
15 “number trapping.”

16 14. Defendant has placed calls for the purpose of debt collection to thousands of
17 consumers in the past four years.

18 15. In or around 2002, Plaintiff purchased a cellular telephone from Verizon. The
19 cellular telephone did not work properly and, within one month of her purchase, Plaintiff returned
20 the phone and did not purchase another.

21 16. In or around 2012, a debt of \$1,026 appeared on Plaintiff’s credit report from
22 Verizon. This debt incorrectly stems from Plaintiff’s 2002 Verizon purchase. Plaintiff does not owe
23 any money to Verizon associated with her purchase of a cellular telephone.

24 17. Approximately three months after Plaintiff noticed the debt on her credit report, the
25 debt became associated with Pinnacle Credit Services, instead of Verizon.

1 definition of the Class. Class members can be identified through Defendant's records.

2 24. **Typicality:** Plaintiff's claims are typical of the claims of other members of the Class,
3 in that Plaintiff and the Class members sustained damages arising out of Defendant's uniform
4 wrongful conduct and unsolicited telephone calls.

5 25. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect
6 the interests of the Class, and has retained counsel competent and experienced in complex class
7 actions. Plaintiff has no interest antagonistic to those of the Class, and Defendant has no defenses
8 unique to Plaintiff.

9 26. **Commonality and Predominance:** There are many questions of law and fact
10 common to the claims of Plaintiff and the Class, and those questions predominate over any
11 questions that may affect individual members of the Class. Common questions for the Class
12 include, but are not necessarily limited to the following:

- 13 (a) whether Defendant's conduct constitutes a violation of the TCPA;
- 14 (b) whether the equipment Defendant used to make the telephone calls in
15 question was an automatic telephone dialing system as contemplated by the
16 TCPA;
- 17 (c) whether Defendant systematically made telephone calls to persons who did
18 not previously provide Defendant with their prior express consent to receive
19 such telephone calls;
- 20 (d) whether Class members are entitled to treble damages based on the
21 willfulness of Defendant's conduct.

22 27. **Superiority:** This case is also appropriate for class certification because class
23 proceedings are superior to all other available methods for the fair and efficient adjudication of this
24 controversy since joinder of all parties is impracticable. The damages suffered by the individual
25 members of the Class will likely be relatively small, especially given the burden and expense of
26 individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would
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1 be virtually impossible for the individual members of the Class to obtain effective relief from
 2 Defendant's misconduct. Even if members of the Class could sustain such individual litigation, it
 3 would still not be preferable to a class action, because individual litigation would increase the delay
 4 and expense to all parties due to the complex legal and factual controversies presented in this
 5 Complaint. By contrast, a class action presents far fewer management difficulties and provides the
 6 benefits of single adjudication, economy of scale, and comprehensive supervision by a single Court.
 7 Economies of time, effort and expense will be fostered and uniformity of decisions ensured.

8 **COUNT I**
 9 **Violation of the TCPA, 47 U.S.C. § 227**
(On behalf of Plaintiff and the Class)

10 28. Plaintiff incorporates by reference the foregoing allegations as if fully set forth
 11 herein.

12 29. Defendant made unsolicited telephone calls to cellular telephone numbers belonging
 13 to Plaintiff and the other members of the Class without their prior express consent to receive such
 14 calls.

15 30. Defendant made the telephone calls, or had them made on its behalf, using
 16 equipment that had the capacity to store or produce telephone numbers to be called using a random
 17 or sequential number generator, and to dial such numbers.

18 31. Defendant and its agents utilized equipment that made, or had made on its behalf, the
 19 telephone calls to Plaintiff and other members of the Class simultaneously and without human
 20 intervention.

21 32. By making, or having made on its behalf, the unsolicited telephone calls to Plaintiff
 22 and the Class's cellular telephones without prior express consent, and by utilizing an automatic
 23 telephone dialing system, Defendant has violated 47 U.S.C. § 227(b)(1)(A)(iii).

24 33. As a result of Defendant's unlawful conduct, Plaintiff and the members of the Class
 25 suffered actual damages in the form of monies paid to receive the unsolicited telephone calls on
 26 their cellular phones and under section 227(b)(3)(B) are each entitled to, *inter alia*, a minimum of
 27
 28

1 \$500 in damages for each such violation of the TCPA.

2 34. Should the Court determine that Defendant's conduct was willful and knowing, the
3 Court may, pursuant to section 227(b)(3)(C), treble the amount of statutory damages recoverable by
4 Plaintiff and the other members of the Class.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff Jessica Beell, individually and on behalf of the Class, prays for the
7 following relief:

- 8 1. An order certifying the Class as defined above, appointing Plaintiff Jessica Beell as
9 the representative of the Class, and appointing her counsel as Class Counsel;
- 10 2. An award of actual and statutory damages;
- 11 3. An injunction requiring Defendant to cease all unsolicited telephone calling
12 activities, and otherwise protecting the interests of the Class;
- 13 4. An award of reasonable attorneys' fees and costs; and
- 14 5. Such other and further relief that the Court deems reasonable and just.

15 **JURY DEMAND**

16 Plaintiff requests a trial by jury of all claims that can be so tried.

17 Respectfully submitted,

18 Dated: July 23, 13

19 **JESSICA BEELL**, individually and on
20 behalf of all others similarly situated,

21 By: /s/ Marc P. Cook
22 One of her Attorneys

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